

TITLE 10. INVESTMENT  
[Notice published December 28, 2007]

NOTICE OF PROPOSED RULEMAKING

The Department of Financial Institutions ("Department") proposes to adopt the proposed regulations described below after considering all comments, objections, and recommendations regarding the proposed action.

PUBLIC HEARING

The Department has not scheduled a public hearing on this proposed action. However, the Department will hold a hearing if any interested person or duly authorized representative submits a written request for a public hearing no later than 15 days before the close of the written comment period.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Department. The written comment period closes at 5:00 p.m. on February 11, 2008. The Department will consider only comments received at the Department offices by that time. Submit comments to:

Manuela Rumsey  
Staff Counsel  
Department of Financial Institutions  
1810 13<sup>th</sup> Street  
Sacramento, CA 95811  
Fax (916) 324-2011  
mrumsey@dfi.ca.gov

AUTHORITY AND REFERENCE

Financial Code Section 215 authorizes the Department to adopt the proposed regulations, which would implement, interpret, or make specific Section 690, et seq., of the Financial Code.

INFORMATIVE DIGEST/ POLICY STATEMENT OVERVIEW

This rulemaking action clarifies and makes specific the requirements to qualify for an automatic exemption from the application process for equity compensation plans or awards issued by California state-chartered banks.

Financial Code Section 697 exempts from the application process any transaction or security which the Commissioner of Financial Institutions ("Commissioner") finds as not

necessary or appropriate in the public interest or for the protection of investors. Financial Code Section 215 authorizes the Commissioner to issue regulations deemed necessary or advisable in executing the powers, duties, and responsibilities of the Department.

The Department proposes to adopt Sections 10.19700, 10.19800, 10.19801, 10.19802 and 10.19803 in Title 10 of the California Code of Regulations (“CCR”). The regulations proposed in this rulemaking would establish an automatic exemption from the application/permit process for qualifying equity compensation plans or awards of banks. It would also establish the application process for equity compensation plans or awards that do not qualify for the automatic exemption.

#### DISCLOSURES REGARDING THE PROPOSED ACTION:

*The Department has made the following determinations:*

Mandate on local agencies and school districts: None.

Cost or savings to any state agency: De minimis savings over current practice of issuing an order of exemption.

Cost to any local agency or school district which must be reimbursed in accordance with Government Code Sections 17500 through 17630: None.

Other nondiscretionary cost or savings imposed local agencies: None.

Cost or savings in federal funding to the state: None.

Significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: None.

Cost impacts on a representative private person or business: The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. However, there would be a slight cost reduction due to the removal of the steps of requesting an order of exemption.

Adoption of these regulations will not:

- (1) create or eliminate jobs within California;
- (2) create new businesses or eliminate existing businesses within California; or
- (3) affect the expansion of businesses currently doing business within California.

Significant effect on housing costs: None.

### *Small Business Determination*

The proposed regulations will not affect small business. The proposed regulations relate to the adoption and implementation by banks of equity compensation plans or awards. Government Code Section 11342.610 excludes financial institutions, including banks, from the definition of “small business.”

### CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5, subdivision (a)(13), the Department must determine that no reasonable alternative it considered, or that has otherwise been identified and brought to the attention of the agency, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed action.

The Department invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations during the written comment period.

### CONTACT PERSONS

Inquiries concerning the proposed rulemaking may be directed to:

Manuela Rumsey  
Staff Counsel  
Department of Financial Institutions  
1810 13<sup>th</sup> Street  
Sacramento, CA 95811  
Tel. (916) 322-5983  
Fax (916) 324-2011  
[mrumsley@dfi.ca.gov](mailto:mrumsley@dfi.ca.gov)

The backup contact person is:

Kenneth Sayre-Peterson  
Acting General Counsel  
Department of Financial Institutions  
1810 13<sup>th</sup> Street  
Sacramento, CA 95811  
Tel. (916) 322-1570  
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[ksayre-peterson@dfi.ca.gov](mailto:ksayre-peterson@dfi.ca.gov)

### AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Department will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, and the initial statement of reasons. Copies may be obtained by contacting Ms. Rumsey at the address or phone number listed above.

#### AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments received, the Department may adopt the proposed regulations substantially as described in this notice. If the Department makes modifications that are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Department adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of Ms. Rumsey at the address indicated above. The Department will accept written comments on the modified regulations for 15 days after the date on which they are made available.

#### AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Ms. Rumsey at the above address.

#### AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations in underline and strikeout can be accessed through our Web site at [www.dfi.ca.gov](http://www.dfi.ca.gov).